

AMENDED IN SENATE SEPTEMBER 3, 2013

AMENDED IN ASSEMBLY MAY 2, 2013

AMENDED IN ASSEMBLY APRIL 10, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 921

Introduced by Assembly Member Jones-Sawyer

February 22, 2013

An act to ~~add Chapter 4.7 (commencing with Section 4080) to Part 3 of Division 2 of the Labor Code, to amend Sections 241 and 243 of the Penal Code, and to amend Sections 10601.2 and 10850.4 of, and to add Section 10605.5 to,~~ the Welfare and Institutions Code, relating to child welfare services.

LEGISLATIVE COUNSEL'S DIGEST

AB 921, as amended, Jones-Sawyer. Child welfare services.

~~The California Whistleblower Protection Act prohibits an employee, as defined to include specified employees in the executive and judicial branches of state government, from using his or her official authority or influence for the purpose of intimidating, threatening, coercing, or commanding any person for the purpose of interfering with his or her right to make a protected disclosure of improper governmental activity. The act requires the State Auditor to investigate and report on improper governmental activities, as specified. The act authorizes an employee or applicant for employment who files a written complaint alleging reprisal, retaliation, or similar prohibited acts to also file a copy of the written complaint with the State Personnel Board. The act provides that any person who intentionally engages in acts of reprisal, retaliation, or similar prohibited acts against a state employee or applicant for state~~

employment for having made a protected disclosure, is subject to punishment for a misdemeanor and liable in an action for civil damages brought by the injured party.

This bill would require, by January 1, 2015, the board of supervisors of a county to adopt an ordinance that would prohibit the taking of specified actions toward a social worker who is employed by a county child welfare agency, including retaliation against the employee for disclosing or reporting information to the public, an appointed or elected official, or an employee or other official of a governmental, including law enforcement, agency, where the social worker has reasonable cause to believe that the information discloses a policy or practice that endangers the health or well-being of a child, is a violation of a state or federal statute, regulation, or policy, or is a violation of a county ordinance or policy. The bill would provide that a county is liable for a specified civil penalty for violations of the prohibitions of the ordinance adopted pursuant to this bill.

The bill would also subject to civil liability a person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against an employee of a county child welfare agency who discloses or reports information as described in the above provisions:

Existing law establishes the crime of assault against specified public safety officers, such as peace officers, firefighters, and emergency medical technicians, among others, while engaged in the performance of their duties, as specified. The offense is punishable by a fine not exceeding \$2,000, or by imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment.

This bill would expand the scope of the offense to include social workers employed by a county in child welfare, as defined, while engaged in the performance of their duties, as specified.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

Existing law establishes the crime of battery against specified public safety officers, such as peace officers, firefighters, and emergency medical technicians, among others, while engaged in the performance of their duties, as specified. The offense is punishable, except when the victim sustains an injury, by a fine not exceeding \$2,000, or by imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment.

This bill would expand the scope of the battery offense described above to include a social worker employed by a county in child welfare,

~~as defined, while engaged in the performance of his or her duty, as specified.~~

~~By expanding the scope of an existing crime, this bill would impose a state-mandated local program.~~

Under existing law, the State Department of Social Services oversees the administration of county public social services, including child welfare services. Existing law requires the department to establish the California Child and Family Service Review System, in order to review all county child welfare systems.

This bill, in relation to these reviews, would require each county to consult with specified stakeholders in developing the county self-assessments and county improvement plans, or any subsequent county self-assessments, as specified. This bill would also require the county improvement plans to include a separately titled provision that lists and provides the rationale for proposed operational improvements that may be implemented at a cost savings to the county or within existing resources. By increasing duties of county officials, this bill would impose a state-mandated local program.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

Existing law authorizes the department to conduct or have conducted audits and reviews in order to meet its obligations for child welfare programs and to ensure the protection of children and families.

This bill would prohibit a county child welfare agency that is an employer of social workers engaged in providing child welfare services from retaliating against a social worker if the social worker has reasonable cause to believe that a policy, procedure, or practice related to the provision of child welfare services endangers the health or well-being of a child or children, and the social worker discloses this information to a government or law enforcement agency, an appointed or elected official, or the public. The bill would make findings and declarations in that regard.

Existing law authorizes the department and the county welfare department or agency to comment on a child fatality once certain documents from the child’s case file have been released by the custodian of records, within the scope of the release.

This bill would additionally authorize a county child welfare social worker to comment for purposes of these provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) This act shall be known as the Child Welfare
- 2 Social Worker Empowerment and Foster Child Protection Act.
- 3 (b) The Legislature finds and declares that, while California
- 4 foster children are in foster care, they are uniquely dependent upon
- 5 the lawful, efficient, and competent delivery of state and local
- 6 government services and implementation of state and federal law.
- 7 (c) The Legislature further finds and declares that the special
- 8 and uniquely vulnerable status of foster children warrants extending
- 9 whistleblower protections for state employees to county child
- 10 welfare social workers to ensure that each worker, without fear of
- 11 retaliation, can advocate for policies that benefit every child and
- 12 publicly participate in discussions about each child’s wellbeing.
- 13 (d) The Legislature further finds and declares that county child
- 14 welfare social workers who implement state and federal policy
- 15 related to the delivery of services and implementation of programs
- 16 benefitting foster children should have an avenue to suggest
- 17 cost-saving efficiencies in the delivery of services to foster
- 18 children, in a fashion that is transparent and accountable to the
- 19 public.
- 20 ~~SEC. 2. Chapter 4.7 (commencing with Section 4080) is added~~
- 21 ~~to Part 3 of Division 2 of the Labor Code, to read:~~

1 ~~CHAPTER 4.7. COUNTY CHILD WELFARE SOCIAL WORKERS~~

2
3 4080. ~~(a) By January 1, 2015, the board of supervisors of a~~
4 ~~county shall adopt an ordinance that prohibits the following actions~~
5 ~~toward a social worker who is employed by a county child welfare~~
6 ~~agency:~~

7 ~~(1) Making, adopting, or enforcing any rule, regulation, or policy~~
8 ~~to prevent the employee from disclosing or reporting information~~
9 ~~to the public, an appointed or elected official, or an employee or~~
10 ~~other official of a governmental, including law enforcement,~~
11 ~~agency, where the social worker has reasonable cause to believe~~
12 ~~that the information discloses a policy or practice that endangers~~
13 ~~the health or well-being of a child, is a violation of a state or federal~~
14 ~~statute, regulation, or policy; or is a violation of a county ordinance~~
15 ~~or policy.~~

16 ~~(2) Retaliating against the employee for disclosing or reporting~~
17 ~~information to the public, an appointed or elected official, or an~~
18 ~~employee or other official of a governmental, including law~~
19 ~~enforcement, agency, where the social worker has reasonable cause~~
20 ~~to believe that the information discloses a policy or practice that~~
21 ~~endangers the health or well-being of a child, is a violation of a~~
22 ~~state or federal statute, regulation, or policy, or is a violation of a~~
23 ~~county ordinance or policy.~~

24 ~~(3) Retaliating against the employee for refusing to participate~~
25 ~~in an activity that would result in endangering the health or~~
26 ~~well-being of a child, is a violation of a state or federal statute,~~
27 ~~regulation, or policy; or is a violation of a county ordinance or~~
28 ~~policy.~~

29 ~~(b) In addition to other penalties or damages, a county that~~
30 ~~adopts an ordinance described in subdivision (a) shall be liable for~~
31 ~~a civil penalty not exceeding ten thousand dollars (\$10,000) for~~
32 ~~each violation of this ordinance, and the employee's reasonable~~
33 ~~attorney's fees and costs.~~

34 ~~(e) In a civil action or administrative proceeding brought~~
35 ~~pursuant to the ordinance, once it has been demonstrated by a~~
36 ~~preponderance of the evidence that an activity proscribed by this~~
37 ~~section was a contributing factor in the alleged prohibited action~~
38 ~~against the employee, the employer shall have the burden of proof~~
39 ~~to demonstrate by clear and convincing evidence that the alleged~~
40 ~~action would have occurred for legitimate, independent reasons~~

1 even if the employee had not engaged in activities protected by
2 this section.

3 (d) ~~Nothing in this section shall be construed to authorize a~~
4 ~~social worker employed by a county child welfare agency to~~
5 ~~disclose the identity of a child or the case file.~~

6 (e) ~~For purposes of this section and Section 4081, “county child~~
7 ~~welfare agency” includes a county welfare department, child~~
8 ~~welfare department, and any other county agency that employs~~
9 ~~social workers and is responsible for the placement and supervision~~
10 ~~of children and youth in foster care.~~

11 4081. (a) ~~In addition to any other penalty provided by law, a~~
12 ~~person who intentionally engages in acts of reprisal, retaliation,~~
13 ~~threats, coercion, or similar acts against an employee of a county~~
14 ~~child welfare agency for a violation of an ordinance adopted~~
15 ~~pursuant to Section 4080 shall be liable in a civil action for~~
16 ~~damages brought against him or her by the injured party. Punitive~~
17 ~~damages may be awarded by the court where the acts of the party~~
18 ~~alleged to violate Section 4080 are proven to be malicious. Where~~
19 ~~liability has been established, the injured party shall also be entitled~~
20 ~~to reasonable attorney’s fees as provided by law.~~

21 (b) ~~This section shall not be construed to prevent an appointing~~
22 ~~power, manager, or supervisor from taking, directing others to~~
23 ~~take, recommending, or approving any personnel action or from~~
24 ~~taking or failing to take a personnel action with respect to any~~
25 ~~employee of a county child welfare agency if the appointing power,~~
26 ~~manager, or supervisor reasonably believes any action or inaction~~
27 ~~is justified on the basis of evidence separate and apart from the~~
28 ~~fact that the person has made a disclosure protected pursuant to~~
29 ~~an ordinance adopted pursuant to Section 4080.~~

30 (e) ~~Nothing in this chapter or ordinance adopted pursuant to~~
31 ~~this chapter shall be construed to diminish the rights, privileges,~~
32 ~~or remedies of any employee under any other federal or state law~~
33 ~~or under any employment contract or collective bargaining~~
34 ~~agreement.~~

35 SEC. 3. Section 241 of the Penal Code is amended to read:

36 241. (a) ~~An assault is punishable by a fine not exceeding one~~
37 ~~thousand dollars (\$1,000), or by imprisonment in the county jail~~
38 ~~not exceeding six months, or by both the fine and imprisonment.~~

39 (b) ~~When an assault is committed against the person of a parking~~
40 ~~control officer engaged in the performance of his or her duties,~~

1 and the person committing the offense knows or reasonably should
2 know that the victim is a parking control officer, the assault is
3 punishable by a fine not exceeding two thousand dollars (\$2,000),
4 or by imprisonment in the county jail not exceeding six months,
5 or by both the fine and imprisonment.

6 ~~(e) When an assault is committed against the person of a peace
7 officer, firefighter, emergency medical technician, mobile intensive
8 care paramedic, lifeguard, process server, traffic officer, code
9 enforcement officer, animal control officer, social worker employed
10 by a county in child welfare, or search and rescue member engaged
11 in the performance of his or her duties, or a physician or nurse
12 engaged in rendering emergency medical care outside a hospital,
13 clinic, or other health care facility, and the person committing the
14 offense knows or reasonably should know that the victim is a peace
15 officer, firefighter, emergency medical technician, mobile intensive
16 care paramedic, lifeguard, process server, traffic officer, code
17 enforcement officer, animal control officer, social worker employed
18 by a county in child welfare, or search and rescue member engaged
19 in the performance of his or her duties, or a physician or nurse
20 engaged in rendering emergency medical care, the assault is
21 punishable by a fine not exceeding two thousand dollars (\$2,000),
22 or by imprisonment in a county jail not exceeding one year, or by
23 both the fine and imprisonment.~~

24 ~~(d) As used in this section, the following definitions apply:~~

25 ~~(1) Peace officer means any person defined in Chapter 4.5
26 (commencing with Section 830) of Title 3 of Part 2.~~

27 ~~(2) "Emergency medical technician" means a person possessing
28 a valid course completion certificate from a program approved by
29 the State Department of Health Care Services for the medical
30 training and education of ambulance personnel, and who meets
31 the standards of Division 2.5 (commencing with Section 1797) of
32 the Health and Safety Code.~~

33 ~~(3) "Mobile intensive care paramedic" refers to those persons
34 who meet the standards set forth in Division 2.5 (commencing
35 with Section 1797) of the Health and Safety Code.~~

36 ~~(4) "Nurse" means a person who meets the standards of Division
37 2.5 (commencing with Section 1797) of the Health and Safety
38 Code.~~

39 ~~(5) "Lifeguard" means a person who is:~~

1 ~~(A) Employed as a lifeguard by the state, a county, or a city,~~
2 ~~and is designated by local ordinance as a public officer who has a~~
3 ~~duty and responsibility to enforce local ordinances and~~
4 ~~misdemeanors through the issuance of citations.~~

5 ~~(B) Wearing distinctive clothing which includes written~~
6 ~~identification of the person's status as a lifeguard and which clearly~~
7 ~~identifies the employing organization.~~

8 ~~(6) "Process server" means any person who meets the standards~~
9 ~~or is expressly exempt from the standards set forth in Section 22350~~
10 ~~of the Business and Professions Code.~~

11 ~~(7) "Traffic officer" means any person employed by a county~~
12 ~~or city to monitor and enforce state laws and local ordinances~~
13 ~~relating to parking and the operation of vehicles.~~

14 ~~(8) "Animal control officer" means any person employed by a~~
15 ~~county or city for purposes of enforcing animal control laws or~~
16 ~~regulations.~~

17 ~~(9) (A) "Code enforcement officer" means any person who is~~
18 ~~not described in Chapter 4.5 (commencing with Section 830) of~~
19 ~~Title 3 of Part 2 and who is employed by any governmental~~
20 ~~subdivision, public or quasi-public corporation, public agency,~~
21 ~~public service corporation, any town, city, county, or municipal~~
22 ~~corporation, whether incorporated or chartered, that has~~
23 ~~enforcement authority for health, safety, and welfare requirements,~~
24 ~~and whose duties include enforcement of any statute, rules,~~
25 ~~regulations, or standards, and who is authorized to issue citations,~~
26 ~~or file formal complaints.~~

27 ~~(B) "Code enforcement officer" also includes any person who~~
28 ~~is employed by the Department of Housing and Community~~
29 ~~Development who has enforcement authority for health, safety,~~
30 ~~and welfare requirements pursuant to the Employee Housing Act~~
31 ~~(Part 1 (commencing with Section 17000) of Division 13 of the~~
32 ~~Health and Safety Code), the State Housing Law (Part 1.5~~
33 ~~(commencing with Section 17910) of Division 13 of the Health~~
34 ~~and Safety Code), the Manufactured Housing Act of 1980 (Part 2~~
35 ~~(commencing with Section 18000) of Division 13 of the Health~~
36 ~~and Safety Code), the Mobilehome Parks Act (Part 2.1~~
37 ~~(commencing with Section 18200) of Division 13 of the Health~~
38 ~~and Safety Code), and the Special Occupancy Parks Act (Part 2.3~~
39 ~~(commencing with Section 18860) of Division 13 of the Health~~
40 ~~and Safety Code).~~

1 (10) ~~“Parking control officer” means any person employed by~~
2 ~~a city, county, or city and county, to monitor and enforce state~~
3 ~~laws and local ordinances relating to parking.~~

4 (11) ~~“Search and rescue member” means any person who is part~~
5 ~~of an organized search and rescue team managed by a governmental~~
6 ~~agency.~~

7 (12) ~~“Social worker employed by a county in child welfare”~~
8 ~~means a social worker employed by a county welfare department~~
9 ~~or child welfare department or any other county agency that~~
10 ~~employs social workers and is responsible for the placement and~~
11 ~~supervision of children and youth in foster care.~~

12 SEC. 4. Section 243 of the Penal Code is amended to read:

13 243. (a) ~~A battery is punishable by a fine not exceeding two~~
14 ~~thousand dollars (\$2,000), or by imprisonment in a county jail not~~
15 ~~exceeding six months, or by both that fine and imprisonment.~~

16 (b) ~~When a battery is committed against the person of a peace~~
17 ~~officer, custodial officer, firefighter, emergency medical technician,~~
18 ~~lifeguard, security officer, custody assistant, process server, traffic~~
19 ~~officer, code enforcement officer, animal control officer, social~~
20 ~~worker employed by a county in child welfare, or search and rescue~~
21 ~~member engaged in the performance of his or her duties, whether~~
22 ~~on or off duty, including when the peace officer is in a police~~
23 ~~uniform and is concurrently performing the duties required of him~~
24 ~~or her as a peace officer while also employed in a private capacity~~
25 ~~as a part-time or casual private security guard or patrolman, or a~~
26 ~~nonsworn employee of a probation department engaged in the~~
27 ~~performance of his or her duties, whether on or off duty, or a~~
28 ~~physician or nurse engaged in rendering emergency medical care~~
29 ~~outside a hospital, clinic, or other health care facility, and the~~
30 ~~person committing the offense knows or reasonably should know~~
31 ~~that the victim is a peace officer, custodial officer, firefighter,~~
32 ~~emergency medical technician, lifeguard, security officer, custody~~
33 ~~assistant, process server, traffic officer, code enforcement officer,~~
34 ~~animal control officer, social worker employed by a county in~~
35 ~~child welfare, or search and rescue member engaged in the~~
36 ~~performance of his or her duties, nonsworn employee of a probation~~
37 ~~department, or a physician or nurse engaged in rendering~~
38 ~~emergency medical care, the battery is punishable by a fine not~~
39 ~~exceeding two thousand dollars (\$2,000), or by imprisonment in~~

1 a county jail not exceeding one year, or by both that fine and
2 imprisonment.

3 (e) (1) When a battery is committed against a custodial officer,
4 firefighter, emergency medical technician, lifeguard, process server,
5 traffic officer, or animal control officer engaged in the performance
6 of his or her duties, whether on or off duty, or a nonsworn
7 employee of a probation department engaged in the performance
8 of his or her duties, whether on or off duty, or a physician or nurse
9 engaged in rendering emergency medical care outside a hospital,
10 clinic, or other health care facility, and the person committing the
11 offense knows or reasonably should know that the victim is a
12 nonsworn employee of a probation department, custodial officer,
13 firefighter, emergency medical technician, lifeguard, process server,
14 traffic officer, or animal control officer engaged in the performance
15 of his or her duties, or a physician or nurse engaged in rendering
16 emergency medical care, and an injury is inflicted on that victim,
17 the battery is punishable by a fine of not more than two thousand
18 dollars (\$2,000), by imprisonment in a county jail not exceeding
19 one year, or by both that fine and imprisonment, or by
20 imprisonment pursuant to subdivision (h) of Section 1170 for 16
21 months, or two or three years.

22 (2) When the battery specified in paragraph (1) is committed
23 against a peace officer engaged in the performance of his or her
24 duties, whether on or off duty, including when the peace officer
25 is in a police uniform and is concurrently performing the duties
26 required of him or her as a peace officer while also employed in
27 a private capacity as a part-time or casual private security guard
28 or patrolman and the person committing the offense knows or
29 reasonably should know that the victim is a peace officer engaged
30 in the performance of his or her duties, the battery is punishable
31 by a fine of not more than ten thousand dollars (\$10,000), or by
32 imprisonment in a county jail not exceeding one year or pursuant
33 to subdivision (h) of Section 1170 for 16 months, or two or three
34 years, or by both that fine and imprisonment.

35 (d) When a battery is committed against any person and serious
36 bodily injury is inflicted on the person, the battery is punishable
37 by imprisonment in a county jail not exceeding one year or
38 imprisonment pursuant to subdivision (h) of Section 1170 for two,
39 three, or four years.

1 (e) ~~(1) When a battery is committed against a spouse, a person~~
2 ~~with whom the defendant is cohabiting, a person who is the parent~~
3 ~~of the defendant's child, former spouse, fiancé, or fiancée, or a~~
4 ~~person with whom the defendant currently has, or has previously~~
5 ~~had, a dating or engagement relationship, the battery is punishable~~
6 ~~by a fine not exceeding two thousand dollars (\$2,000), or by~~
7 ~~imprisonment in a county jail for a period of not more than one~~
8 ~~year, or by both that fine and imprisonment. If probation is granted,~~
9 ~~or the execution or imposition of the sentence is suspended, it shall~~
10 ~~be a condition thereof that the defendant participate in, for no less~~
11 ~~than one year, and successfully complete, a batterer's treatment~~
12 ~~program, as described in Section 1203.097, or if none is available,~~
13 ~~another appropriate counseling program designated by the court.~~
14 ~~However, this provision shall not be construed as requiring a city,~~
15 ~~a county, or a city and county to provide a new program or higher~~
16 ~~level of service as contemplated by Section 6 of Article XIII B of~~
17 ~~the California Constitution.~~

18 ~~(2) Upon conviction of a violation of this subdivision, if~~
19 ~~probation is granted, the conditions of probation may include, in~~
20 ~~lieu of a fine, one or both of the following requirements:~~

21 ~~(A) That the defendant make payments to a battered women's~~
22 ~~shelter, up to a maximum of five thousand dollars (\$5,000).~~

23 ~~(B) That the defendant reimburse the victim for reasonable costs~~
24 ~~of counseling and other reasonable expenses that the court finds~~
25 ~~are the direct result of the defendant's offense.~~

26 ~~For any order to pay a fine, make payments to a battered~~
27 ~~women's shelter, or pay restitution as a condition of probation~~
28 ~~under this subdivision, the court shall make a determination of the~~
29 ~~defendant's ability to pay. In no event shall any order to make~~
30 ~~payments to a battered women's shelter be made if it would impair~~
31 ~~the ability of the defendant to pay direct restitution to the victim~~
32 ~~or court-ordered child support. If the injury to a married person is~~
33 ~~caused in whole or in part by the criminal acts of his or her spouse~~
34 ~~in violation of this section, the community property shall not be~~
35 ~~used to discharge the liability of the offending spouse for restitution~~
36 ~~to the injured spouse, required by Section 1203.04, as operative~~
37 ~~on or before August 2, 1995, or Section 1202.4, or to a shelter for~~
38 ~~costs with regard to the injured spouse and dependents, required~~
39 ~~by this section, until all separate property of the offending spouse~~
40 ~~is exhausted.~~

1 ~~(3) Upon conviction of a violation of this subdivision, if~~
2 ~~probation is granted or the execution or imposition of the sentence~~
3 ~~is suspended and the person has been previously convicted of a~~
4 ~~violation of this subdivision and sentenced under paragraph (1),~~
5 ~~the person shall be imprisoned for not less than 48 hours in addition~~
6 ~~to the conditions in paragraph (1). However, the court, upon a~~
7 ~~showing of good cause, may elect not to impose the mandatory~~
8 ~~minimum imprisonment as required by this subdivision and may,~~
9 ~~under these circumstances, grant probation or order the suspension~~
10 ~~of the execution or imposition of the sentence.~~

11 ~~(4) The Legislature finds and declares that these specified crimes~~
12 ~~merit special consideration when imposing a sentence so as to~~
13 ~~display society's condemnation for these crimes of violence upon~~
14 ~~victims with whom a close relationship has been formed.~~

15 ~~(5) If a peace officer makes an arrest for a violation of paragraph~~
16 ~~(1) of subdivision (c) of this section, the peace officer is not~~
17 ~~required to inform the victim of his or her right to make a citizen's~~
18 ~~arrest pursuant to subdivision (b) of Section 836.~~

19 ~~(f) As used in this section:~~

20 ~~(1) "Peace officer" means any person defined in Chapter 4.5~~
21 ~~(commencing with Section 830) of Title 3 of Part 2.~~

22 ~~(2) "Emergency medical technician" means a person who is~~
23 ~~either an EMT-I, EMT-II, or EMT-P (paramedic), and possesses~~
24 ~~a valid certificate or license in accordance with the standards of~~
25 ~~Division 2.5 (commencing with Section 1797) of the Health and~~
26 ~~Safety Code.~~

27 ~~(3) "Nurse" means a person who meets the standards of Division~~
28 ~~2.5 (commencing with Section 1797) of the Health and Safety~~
29 ~~Code.~~

30 ~~(4) "Serious bodily injury" means a serious impairment of~~
31 ~~physical condition, including, but not limited to, the following:~~
32 ~~loss of consciousness; concussion; bone fracture; protracted loss~~
33 ~~or impairment of function of any bodily member or organ; a wound~~
34 ~~requiring extensive suturing; and serious disfigurement.~~

35 ~~(5) "Injury" means any physical injury which requires~~
36 ~~professional medical treatment.~~

37 ~~(6) "Custodial officer" means any person who has the~~
38 ~~responsibilities and duties described in Section 831 and who is~~
39 ~~employed by a law enforcement agency of any city or county or~~
40 ~~who performs those duties as a volunteer.~~

1 ~~(7) “Lifeguard” means a person defined in paragraph (5) of~~
2 ~~subdivision (d) of Section 241.~~

3 ~~(8) “Traffic officer” means any person employed by a city,~~
4 ~~county, or city and county to monitor and enforce state laws and~~
5 ~~local ordinances relating to parking and the operation of vehicles.~~

6 ~~(9) “Animal control officer” means any person employed by a~~
7 ~~city, county, or city and county for purposes of enforcing animal~~
8 ~~control laws or regulations.~~

9 ~~(10) “Dating relationship” means frequent, intimate associations~~
10 ~~primarily characterized by the expectation of affectional or sexual~~
11 ~~involvement independent of financial considerations.~~

12 ~~(11) (A) “Code enforcement officer” means any person who~~
13 ~~is not described in Chapter 4.5 (commencing with Section 830) of~~
14 ~~Title 3 of Part 2 and who is employed by any governmental~~
15 ~~subdivision, public or quasi-public corporation, public agency,~~
16 ~~public service corporation, any town, city, county, or municipal~~
17 ~~corporation, whether incorporated or chartered, who has~~
18 ~~enforcement authority for health, safety, and welfare requirements,~~
19 ~~and whose duties include enforcement of any statute, rules,~~
20 ~~regulations, or standards, and who is authorized to issue citations,~~
21 ~~or file formal complaints.~~

22 ~~(B) “Code enforcement officer” also includes any person who~~
23 ~~is employed by the Department of Housing and Community~~
24 ~~Development who has enforcement authority for health, safety,~~
25 ~~and welfare requirements pursuant to the Employee Housing Act~~
26 ~~(Part 1 (commencing with Section 17000) of Division 13 of the~~
27 ~~Health and Safety Code), the State Housing Law (Part 1.5~~
28 ~~(commencing with Section 17910) of Division 13 of the Health~~
29 ~~and Safety Code), the Manufactured Housing Act of 1980 (Part 2~~
30 ~~(commencing with Section 18000) of Division 13 of the Health~~
31 ~~and Safety Code), the Mobilehome Parks Act (Part 2.1~~
32 ~~(commencing with Section 18200) of Division 13 of the Health~~
33 ~~and Safety Code), and the Special Occupancy Parks Act (Part 2.3~~
34 ~~(commencing with Section 18860) of Division 13 of the Health~~
35 ~~and Safety Code).~~

36 ~~(12) “Custody assistant” means any person who has the~~
37 ~~responsibilities and duties described in Section 831.7 and who is~~
38 ~~employed by a law enforcement agency of any city, county, or city~~
39 ~~and county.~~

1 ~~(13) “Search and rescue member” means any person who is part~~
2 ~~of an organized search and rescue team managed by a government~~
3 ~~agency.~~

4 ~~(14) “Security officer” means any person who has the~~
5 ~~responsibilities and duties described in Section 831.4 and who is~~
6 ~~employed by a law enforcement agency of any city, county, or city~~
7 ~~and county.~~

8 ~~(15) “Social worker employed by a county in child welfare”~~
9 ~~means a social worker employed by a county welfare department~~
10 ~~or child welfare department or any other county agency that~~
11 ~~employs social workers and is responsible for the placement and~~
12 ~~supervision of children and youth in foster care.~~

13 ~~(g) It is the intent of the Legislature by amendments to this~~
14 ~~section at the 1981–82 and 1983–84 Regular Sessions to abrogate~~
15 ~~the holdings in cases such as People v. Corey, 21 Cal. 3d 738, and~~
16 ~~Cervantez v. J.C. Penney Co., 24 Cal. 3d 579, and to reinstate prior~~
17 ~~judicial interpretations of this section as they relate to criminal~~
18 ~~sanctions for battery on peace officers who are employed, on a~~
19 ~~part-time or casual basis, while wearing a police uniform as private~~
20 ~~security guards or patrolmen and to allow the exercise of peace~~
21 ~~officer powers concurrently with that employment.~~

22 ~~SEC. 5.~~

23 ~~SEC. 2.~~ Section 10601.2 of the Welfare and Institutions Code
24 is amended to read:

25 10601.2. (a) The State Department of Social Services shall
26 establish, by April 1, 2003, the California Child and Family Service
27 Review System, in order to review all county child welfare systems.
28 These reviews shall cover child protective services, foster care,
29 adoption, family preservation, family support, and independent
30 living.

31 (b) Child and family service reviews shall maximize compliance
32 with the federal regulations for the receipt of money from Subtitle
33 E (commencing with Section 470) of Title IV of the federal Social
34 Security Act (42 U.S.C. Sec. 670 and following) and ensure
35 compliance with state plan requirements set forth in Subtitle B
36 (commencing with Section 421) of Title IV of the federal Social
37 Security Act (42 U.S.C. Sec. 621 and following).

38 (c) (1) (A) The California Health and Human Services Agency
39 shall convene a workgroup comprised of representatives of the
40 Judicial Council, the State Department of Social Services, the State

1 Department of Health Care Services, the State Department of
2 Education, the State Department of Justice, any other state
3 departments or agencies the California Health and Human Services
4 Agency deems necessary, the County Welfare Directors
5 Association, the California State Association of Counties, the Chief
6 Probation Officers of California, the California Youth Connection,
7 and representatives of California tribes, interested child advocacy
8 organizations, researchers, and foster parent organizations. The
9 workgroup shall establish a workplan by which child and family
10 service reviews shall be conducted pursuant to this section,
11 including a process for qualitative peer reviews of case information.

12 (B) At a minimum, in establishing the workplan, the workgroup
13 shall consider any existing federal program improvement plans
14 entered into by the state pursuant to federal regulations, the
15 outcome indicators to be measured, compliance thresholds for each
16 indicator, timelines for implementation, county review cycles,
17 uniform processes, procedures and review instruments to be used,
18 a corrective action process, and any funding or staffing increases
19 needed to implement the requirements of this section. The agency
20 shall broadly consider collaboration with all entities to allow the
21 adequate exchange of information and coordination of efforts to
22 improve outcomes for foster youth and families.

23 (2) In developing county self-assessments and county
24 improvement plans pursuant to this section, or any subsequent
25 county self-assessments pursuant to this section, each county shall
26 consult with stakeholders, including, but not limited to, county
27 child welfare agencies and probation agency staff at all levels,
28 current and former foster children, children’s attorneys, and foster
29 care providers. The county shall consult with at least one county
30 child welfare worker named by the bargaining unit representing
31 children’s social workers.

32 (d) (1) The California Child and Family Service Review System
33 outcome indicators shall be consistent with the federal child and
34 family service review measures and standards for child and family
35 outcomes and system factors authorized by Subtitle B (commencing
36 with Section 421) and Subtitle E (commencing with Section 470)
37 of Title IV of the federal Social Security Act and the regulations
38 adopted pursuant to those provisions (Parts 1355 to 1357, inclusive,
39 of Title 45 of the Code of Federal Regulations).

1 (2) During the first review cycle pursuant to this section, each
2 county shall be reviewed according to the outcome indicators
3 established for the California Child and Family Service Review
4 System.

5 (3) For subsequent reviews, the workgroup shall consider
6 whether to establish additional outcome indicators that support the
7 federal outcomes and any program improvement plan, and promote
8 good health, mental health, behavioral, educational, and other
9 relevant outcomes for children and families in California's child
10 welfare services system.

11 (4) The workgroup shall convene as necessary to update the
12 outcome indicators described in paragraph (1).

13 (5) The county improvement plans developed pursuant to this
14 section that are approved by the county board of supervisors shall
15 include a separately titled provision that lists and provides the
16 rationale for proposed operational improvements identified during
17 the stakeholder process described in paragraph (2) of subdivision
18 (c) that may be implemented at a cost savings to the county or
19 within existing county resources.

20 (e) The State Department of Social Services shall identify and
21 promote the replication of best practices in child welfare service
22 delivery to achieve the measurable outcomes established pursuant
23 to subdivision (d).

24 (f) Notwithstanding Section 10231.5 of the Government Code,
25 the State Department of Social Services shall provide information
26 to the Assembly Committee on Budget and the Senate Committee
27 on Budget and Fiscal Review and appropriate legislative policy
28 committees annually, beginning with the 2002–03 fiscal year, on
29 all of the following:

30 (1) The department's progress in planning for the federal child
31 and family service review to be conducted by the United States
32 Department of Health and Human Services and, upon completion
33 of the federal review, the findings of that review, the state's
34 response to the findings, and the details of any program
35 improvement plan entered into by the state.

36 (2) The department's progress in implementing the California
37 child and family service reviews, including, but not limited to, the
38 timelines for implementation, the process to be used, and any
39 funding or staffing increases needed at the state or local level to
40 implement the requirements of this section.

1 (3) The findings and recommendations for child welfare system
2 improvements identified in county self-assessments and county
3 system improvement plans, including information on common
4 statutory, regulatory, or fiscal barriers identified as inhibiting
5 system improvements, any recommendations to overcome those
6 barriers, and, as applicable, information regarding the allocation
7 and use of the moneys provided to counties pursuant to subdivision
8 (i).

9 (g) Effective April 1, 2003, the existing county compliance
10 review system shall be suspended to provide to the State
11 Department of Social Services sufficient lead time to provide
12 training and technical assistance to counties for the preparation
13 necessary to transition to the new child and family service review
14 system.

15 (h) Beginning January 1, 2004, the department shall commence
16 individual child and family service reviews of California counties.
17 County child welfare systems that do not meet the established
18 compliance thresholds for the outcome measures that are reviewed
19 shall receive technical assistance from teams made up of state and
20 peer-county administrators to assist with implementing best
21 practices to improve their performance and make progress toward
22 meeting established levels of compliance.

23 (i) (1) To the extent that funds are appropriated in the annual
24 Budget Act to enable counties to implement approaches to
25 improving their performance on the outcome indicators under this
26 section, the department, in consultation with counties, shall
27 establish a process for allocating the funds to counties.

28 (2) The allocation process shall take into account, at a minimum,
29 the extent to which the proposed funding would be used for
30 activities that are reasonably expected to help the county make
31 progress toward the outcome indicators established pursuant to
32 this section, and the extent to which county funding for the Child
33 Abuse, Prevention and Treatment program is aligned with the
34 outcome indicators.

35 (3) To the extent possible, a county shall use funds in a manner
36 that enables the county to access additional federal, state, and local
37 funds from other available sources. However, a county's ability
38 to receive additional matching funds from these sources shall not
39 be a determining factor in the allocation process established
40 pursuant to this subdivision.

1 (4) The department shall provide information to the appropriate
2 committees of the Legislature on the process established pursuant
3 to this subdivision for allocating funds to counties.

4 (j) (1) Counties shall continue to be responsible for and
5 accountable to the department for child welfare program
6 performance measures, including all of the following:

7 (A) The outcome and systemic factor measures contained in the
8 federal Department of Health and Human Services Child and
9 Family Services Review Procedures Manual, Appendix B, Index
10 of Outcomes and Systemic Factors, and Associated Items and Data
11 Indicators, issued pursuant to Sections 1355.34(b) and 1355.34(c)
12 of Title 45 of the Code of Federal Regulations.

13 (B) Information and other requirements necessary for the
14 California Child and Family Service Review System, as required
15 pursuant to this section.

16 (C) Monthly caseworker visits with a child in care.

17 (D) Timeliness to begin an investigation of allegations of child
18 abuse or neglect.

19 (E) Notwithstanding the rulemaking provisions of the
20 Administrative Procedure Act (Chapter 3.5 (commencing with
21 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
22 Code), other performance measures resulting from new federal
23 mandates or court decrees as specified in an all-county letter issued
24 by the department.

25 (2) The department shall monitor, on an ongoing basis, county
26 performance on the measures specified in paragraph (1).

27 (3) At least once every five years, the department shall conduct
28 a comprehensive review of county performance on the measures
29 specified in paragraph (1).

30 (4) (A) The department shall periodically update the process
31 guides utilized by counties to prepare the self assessments and
32 system improvement plans to promote implementation and
33 evaluation of promising practices and use of data.

34 (B) The process guides also shall include, but not be limited to,
35 both of the following:

36 (i) County evaluation of demographics for the children and
37 families served and effectiveness of the system improvement
38 activities for these populations.

1 (ii) A description of the process by which the department and
2 counties shall develop mutually agreed upon performance targets
3 for improvement.

4 (5) The department, in consultation with counties, shall develop
5 a process for resolving any disputes regarding the establishment
6 of appropriate targets pursuant to the process provided in paragraph
7 (4).

8 (6) A county shall submit an update to the department, no less
9 than annually, on its progress in achieving improvements from the
10 county's baseline for the applicable measure. The department may
11 require a county that has not met its performance targets to submit
12 and implement a corrective action plan, as determined by the
13 director.

14 (k) Beginning in the 2011–12 fiscal year, and for each fiscal
15 year thereafter, funding and expenditures for programs and
16 activities required under this section shall be in accordance with
17 the requirements provided in Sections 30025 and 30026.5 of the
18 Government Code.

19 *SEC. 3. Section 10605.5 is added to the Welfare and Institutions*
20 *Code, to read:*

21 *10605.5. (a) A county child welfare agency that is an employer*
22 *of social workers engaged in providing child welfare services shall*
23 *not retaliate against a social worker if the social worker has*
24 *reasonable cause to believe that a policy, procedure, or practice*
25 *related to the provision of child welfare services endangers the*
26 *health or well-being of a child or children and the social worker*
27 *discloses this information to a government or law enforcement*
28 *agency, an appointed or elected official, or the public.*

29 *(b) Nothing in this section authorizes a social worker employed*
30 *by a county child welfare agency to disclose the identity of a child*
31 *or any portion of a case file.*

32 *(c) For purposes of this section, "county child welfare agency"*
33 *includes a county welfare department, child welfare department,*
34 *and any other county agency that employs social workers and is*
35 *responsible for the placement and supervision of children and*
36 *youth in foster care.*

37 ~~SEC. 6.~~

38 *SEC. 4. Section 10850.4 of the Welfare and Institutions Code*
39 *is amended to read:*

1 10850.4. (a) Within five business days of learning that a child
2 fatality has occurred in the county and that there is a reasonable
3 suspicion that the fatality was caused by abuse or neglect, the
4 custodian of records for the county child welfare agency, upon
5 request, shall release the following information:

- 6 (1) The age and gender of the child.
- 7 (2) The date of death.
- 8 (3) Whether the child was in foster care or in the home of his
9 or her parent or guardian at the time of death.
- 10 (4) Whether an investigation is being conducted by a law
11 enforcement agency or the county child welfare agency.

12 (b) All cases in which abuse or neglect leads to a child's death
13 shall be subject to the disclosures required in subdivision (c). Abuse
14 or neglect is determined to have led to a child's death if one or
15 more of the following conditions are met:

- 16 (1) A county child protective services agency determines that
17 the abuse or neglect was substantiated.
- 18 (2) A law enforcement investigation concludes that abuse or
19 neglect occurred.
- 20 (3) A coroner or medical examiner concludes that the child who
21 died had suffered abuse or neglect.

22 (c) Upon completion of the child abuse or neglect investigation
23 into the child's death, as described in subdivision (b), the following
24 documents from the juvenile case file shall be released by the
25 custodian of records upon request, subject to the redactions set
26 forth in subdivision (e):

- 27 (1) All of the information in subdivision (a).
- 28 (2) For cases in which the child's death occurred while living
29 with a parent or guardian, all previous referrals of abuse or neglect
30 of the deceased child while living with that parent or guardian
31 shall be disclosed along with the following documents:
 - 32 (A) The emergency response referral information form and the
33 emergency response notice of referral disposition form completed
34 by the county child welfare agency relating to the abuse or neglect
35 that caused the death of the child.
 - 36 (B) Any cross reports completed by the county child welfare
37 agency to law enforcement relating to the deceased child.
 - 38 (C) All risk and safety assessments completed by the county
39 child welfare services agency relating to the deceased child.

1 (D) All health care records of the deceased child, excluding
2 mental health records, related to the child's death and previous
3 injuries reflective of a pattern of abuse or neglect.

4 (E) Copies of police reports about the person against whom the
5 child abuse or neglect was substantiated.

6 (3) For cases in which the child's death occurred while the child
7 was in foster care, the following documents in addition to those
8 specified in paragraphs (1) and (2) generated while the child was
9 living in the foster care placement that was the placement at the
10 time of the child's death:

11 (A) Records pertaining to the foster parents' initial licensing
12 and renewals and type of license or licenses held, if in the case
13 file.

14 (B) All reported licensing violations, including notices of action,
15 if in the case file.

16 (C) Records of the training completed by the foster parents, if
17 in the case file.

18 (d) The documents listed in subdivision (c) shall be released to
19 the public by the custodian of records within 10 business days of
20 the request or the disposition of the investigation, whichever is
21 later.

22 (e) (1) Prior to releasing any document pursuant to subdivision
23 (c), the custodian of records shall redact the following information:

24 (A) The names, addresses, telephone numbers, ethnicity,
25 religion, or any other identifying information of any person or
26 institution, other than the county or the State Department of Social
27 Services, that is mentioned in the documents listed in paragraphs
28 (2) and (3) of subdivision (c).

29 (B) Any information that would, after consultation with the
30 district attorney, jeopardize a criminal investigation or proceeding.

31 (C) Any information that is privileged, confidential, or not
32 subject to disclosure pursuant to any other state or federal law.

33 (2) (A) The State Department of Social Services shall
34 promulgate a regulation listing the laws described in subparagraph
35 (C) of paragraph (1) and setting forth standards governing
36 redactions.

37 (B) Notwithstanding the rulemaking provisions of the
38 Administrative Procedure Act (Chapter 3.5 (commencing with
39 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
40 Code), until emergency regulations are filed with the Secretary of

1 State, the State Department of Social Services may implement the
2 changes made to Section 827 and this section at the 2007–08
3 Regular Session of the Legislature through all-county letters or
4 similar instructions from the director. The department shall adopt
5 emergency regulations, as necessary to implement those changes,
6 no later than January 1, 2009.

7 (C) The adoption of regulations pursuant to this paragraph shall
8 be deemed to be an emergency necessary for the immediate
9 preservation of the public peace, health, safety, or general welfare.
10 The emergency regulations authorized by this section shall be
11 exempt from review by the Office of Administrative Law. The
12 emergency regulations authorized by this section shall be submitted
13 for filing with the Secretary of State and shall remain in effect for
14 no more than 180 days, by which time the final regulations shall
15 be adopted.

16 (f) Upon receiving a request for the documents listed in
17 subdivision (c), the custodian of records shall notify and provide
18 a copy of the request upon counsel for any child who is directly
19 or indirectly connected to the juvenile case file. If counsel for a
20 child, including the deceased child or any sibling of the deceased
21 child, objects to the release of any part of the documents listed in
22 paragraphs (2) and (3) of subdivision (c), they may petition the
23 juvenile court for relief to prevent the release of any document or
24 part of a document requested pursuant to paragraph (2) of
25 subdivision (a) of Section 827.

26 (g) Documents from the juvenile case file, other than those listed
27 in paragraphs (2) and (3) of subdivision (c), shall only be disclosed
28 upon an order by the juvenile court pursuant to Section 827.

29 (h) Once documents pursuant to this section have been released
30 by the custodian of records, the State Department of Social
31 Services, the county welfare department or agency, and any county
32 child welfare social worker, may comment on the case within the
33 scope of the release.

34 (i) Information released by a custodian of records consistent
35 with the requirements of this section does not require prior notice
36 to any other individual.

37 (j) Each county welfare department or agency shall notify the
38 State Department of Social Services of every child fatality that
39 occurred within its jurisdiction that was the result of child abuse
40 or neglect. Based on these notices and any other relevant

1 information in the State Department of Social Services' possession,
2 the department shall annually issue a report identifying the child
3 fatalities and any systemic issues or patterns revealed by the notices
4 and other relevant information. The State Department of Social
5 Services, after consultation with interested stakeholders, shall
6 provide instructions by an all-county letter regarding the procedure
7 for notification.

8 (k) For purposes of this section, the following definitions apply:

9 (1) "Child abuse or neglect" has the same meaning as defined
10 in Section 11165.6 of the Penal Code.

11 (2) "Custodian of records," for the purposes of this section and
12 paragraph (2) of subdivision (a) of Section 827, means the county
13 welfare department or agency.

14 (3) "Juvenile case files" or "case files" include any juvenile
15 court files, as defined in Rule 5.552 of the California Rules of
16 Court, and any county child welfare department or agency or State
17 Department of Social Services records regardless of whether they
18 are maintained electronically or in paper form.

19 (4) "Substantiated" has the same meaning as defined in Section
20 11165.12 of the Penal Code.

21 (l) A person disclosing juvenile case file information as required
22 by this section shall not be subject to suit in civil or criminal
23 proceedings for complying with the requirements of this section.

24 (m) This section shall apply only to deaths that occur on or after
25 January 1, 2008.

26 (n) Nothing in this section shall require a custodian of records
27 to retain documents beyond any date otherwise required by law.

28 (o) Nothing in this section shall be construed as requiring a
29 custodian of records to obtain documents not in the case file.

30 ~~SEC. 7. No reimbursement is required by this act pursuant to~~
31 ~~Section 6 of Article XIII B of the California Constitution for certain~~
32 ~~costs that may be incurred by a local agency or school district~~
33 ~~because, in that regard, this act creates a new crime or infraction,~~
34 ~~eliminates a crime or infraction, or changes the penalty for a crime~~
35 ~~or infraction, within the meaning of Section 17556 of the~~
36 ~~Government Code, or changes the definition of a crime within the~~
37 ~~meaning of Section 6 of Article XIII B of the California~~
38 ~~Constitution.~~

39 ~~However, if the Commission on State Mandates determines that~~
40 ~~this act contains other costs mandated by the state, reimbursement~~

1 to local agencies and school districts for those costs shall be made
2 pursuant to Part 7 (commencing with Section 17500) of Division
3 4 of Title 2 of the Government Code.

4 *SEC. 5. If the Commission on State Mandates determines that*
5 *this act contains costs mandated by the state, reimbursement to*
6 *local agencies and school districts for those costs shall be made*
7 *pursuant to Part 7 (commencing with Section 17500) of Division*
8 *4 of Title 2 of the Government Code.*